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IN THE
Supreme Court of the United States

OCTOBER TERM, 1978

No. 78-1835

RUTH A. WOLD,

Petitioner,

vs.

ORIN W. WOLD and GEORGE R. WOLD,

Respondents.

**BRIEF IN OPPOSITION TO PETITIONER'S
APPLICATION FOR A WRIT OF CERTIORARI**

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QUESTION PRESENTED

WHETHER A SUBSTANTIAL FEDERAL QUESTION WARRANTING CONSIDERATION BY THIS COURT IS PRESENTED BY THE ACTION OF THE SEVENTH CIRCUIT COURT OF APPEALS IN AFFIRMING DISMISSAL OF PLAINTIFF'S COMPLAINT ON GROUNDS OF *RES JUDICATA*, COLLATERAL ESTOPPEL, AND, TO THE EXTENT THAT ISSUES MAY STILL HAVE BEEN PENDING IN THE STATE COURT, ON THE GROUNDS OF FEDERALISM AND COMITY IN TERMS OF ABSTENTION OR WISE JUDICIAL ADMINISTRATION.

STATEMENT OF THE CASE

This Petition arises out of the dismissal by the United States District Court for the Northern District of Illinois, Eastern Division, of an action filed by the Petitioner to challenge the validity and finality of a Decree of the Circuit Court of McHenry County, Illinois and the affirmance of that dismissal by the Seventh Circuit Court of Appeals.

As noted in the opinion of the Court of Appeals, "It is necessary to review the litigative history of the parties dating back to 1969 in the state courts." (Pet. Br., pp. 1a-2a) That history is extensive and, in summary fashion, is as follows:

Petitioner herein, Ruth A. Wold, is the former wife of Respondent Orin W. Wold. Co-respondent, George R. Wold, is Orin's son. Commencing in 1969 and extending through 1974, various intra-family actions, crossclaims and counterclaims were filed in the Circuit Court of McHenry County, Illinois by the parties to this Petition against one another. The various actions were thereafter consolidated and, on motion of the Petitioner herein and over objection of the Co-respondents George R. Wold and Orin W. Wold, the Circuit Court of McHenry County, Illinois entered an order on April 11, 1974 which provided, *inter alia*, that on trial the question of the validity of a deed from Orin W. Wold to Ruth A. Wold be first heard and determined. On cross-motion of George R. Wold, trial with respect to said issue was set for April 30, 1974. The trial commenced accordingly.

Following four weeks of trial, the State Trial Court, on September 12, 1974, entered a memorandum opinion

in favor of Orin W. Wold and against Ruth A. Wold, and a judgment order and Decree were entered thereon on October 3, 1974, declaring Ruth A. Wold a constructive trustee of the real and personal property in issue for the benefit of Orin W. Wold. In that Decree, the State Court found that Orin W. Wold had conveyed to Ruth A. Wold, his wife, approximately 422 acres of real estate located in McHenry County, Illinois. The State Court also found that on May 15, 1969, Orin W. Wold had transferred to Ruth A. Wold, his wife, all of the corporate stock that he owned in the Dietzgen Company and in the Bull Valley Management Company. The State Court also found that the documents of conveyance had been prepared by Ruth A. Wold and that she had actually prepared three sets of deeds although only set of deeds was recorded as of the time of the trial. The set of deeds that she had recorded prior to trial in the State Court had been dated May 15, 1969.

On October 15, 1974, Petitioner herein, Ruth A. Wold, filed a post-trial motion challenging the Trial Court's order of October 3, 1974. The post-trial motion was denied, and she thereafter appealed to the Illinois Appellate Court for the Second Appellate District. The Appellate Court affirmed. *Wold v. Wold*, 43 Ill. App.3d 773 (2nd Dist. 1976)

Petitioner herein, Ruth A. Wold, thereafter filed a petition for leave to appeal to the Supreme Court of Illinois. The petition was denied on March 31, 1977. (Ill. Supreme Court, Docket No. 49170) No petition was filed with this Court for writ of certiorari.

On April 12, 1977, the Petitioner herein filed a motion with the State Trial Court to vacate its order of October 3, 1974, alleging, *inter alia*, that the order was erroneous, interlocutory, not final and appealable, void

or voidable, based on the perjured testimony of Orin W. Wold, deprived her of her property without due process of law, denied her a right to a remedy for wrongs allegedly inflicted upon her, denied her procedural due process and equal protection of the laws and asserted, for the first time in seven years of litigation, a deed allegedly executed by Orin W. Wold on September 19, 1968, but not recorded until December 29, 1976.

The petition of Ruth A. Wold to vacate the State Court's Decree of October 3, 1974 was denied on May 13, 1977. On that same date, Ruth A. Wold filed an "Answer to the Petition For the Execution of a Judicial Deed", wherein she realleged the allegations contained in her prior motion of April 12, 1977, including the allegation that the order of the Illinois Appellate Court for the Second Appellate District affirming the Trial Court was a nullity for want of jurisdiction, the same allegations later contained in the complaint filed in the United States District Court, the dismissal of which constitutes the subject matter of this Petition. On May 20, 1978, the Circuit Court of McHenry County, Illinois issued a Judicial Deed conveying all of the real estate involved from Ruth A. Wold to Orin W. Wold. On June 13, 1977, Ruth A. Wold filed in the State Trial Court yet another motion to vacate the orders of October 3, 1974, May 13, 1977 and May 20, 1977, and to revoke the Trial Court's Judicial Deed dated May 20, 1977.

While that motion was still pending in the Circuit Court of McHenry County, Illinois, Petitioner herein filed suit in the United States District Court for the Northern District of Illinois.

Premising jurisdiction upon 28 U.S.C. §§ 1331 and 1332, Petitioner herein, Ruth A. Wold, sought the following relief from the United States District Court: (1) a

declaratory judgment that each of the essential allegations of her complaint was well-founded in law and fact; (2) a judgment granting specific performance of a pre-marital agreement dated September 19, 1968; (3) a judgment holding the October 3, 1974 Decree of the Circuit Court of McHenry County, Illinois to be an "interlocutory and aborted order," and enjoining its enforcement; (4) a judgment declaring the Judicial Deed of the Circuit Court of McHenry County, Illinois to be null and void for lack of jurisdiction; (5) a judgment declaring George R. Wold a constructive trustee for the benefit of Petitioner herein, Ruth A. Wold, of certain real estate involved in over seven years of litigation between the parties; (6) a judgment quieting title to the real estate involved in the name of the Petitioner herein; and (7) a money judgment in the sum of Two Hundred Thousand and No/100 Dollars (\$200,000.00), including Fifty Thousand and No/100 Dollars (\$50,000.00) punitive damages.

On motion of each defendant thereto (Respondents herein), the complaint and first supplemental complaint were dismissed, pursuant to the District Court's Memorandum Opinion and Judgment Order, dated February 1, 1978. On appeal, the Seventh Circuit Court of Appeals affirmed.

This Petition emanates from that ruling.

REASONS FOR DENIAL OF WRIT

No substantial federal question has been raised by the action of the District Court in dismissing the Petitioner's complaint, an action which involved the same parties, the same property and the same issues present in eight years of state court litigation, part of which was still pending by way of motion upon motion at the time the Petitioner's complaint was filed with the District Court. In essence, the Petitioner's action involves nothing more than an attempt to get federal court review of a state court ruling. After first invoking the jurisdiction of the entire state court system, the Petitioner, after receiving decisions adverse to her position throughout, now challenges the very jurisdiction which she, herself, invoked. The very concept of federalism, as well as the doctrines of *res judicata*, collateral estoppel, wise judicial administration and abstention, mandated dismissal of the Petitioner's complaint. Had the District Court exercised its jurisdiction over this matter, the very integrity of state court proceedings and judgments would have been jeopardized.

I.

THE PETITIONER HAS FAILED TO RAISE ANY SUBSTANTIAL FEDERAL QUESTION WARRANTING THIS COURT'S CONSIDERATION.

A. The Principles Of *Res Judicata* And Collateral Estoppel Mandated Dismissal Of The Petitioner's Complaint.

There is no substantial federal interest in testing the validity and finality of state court judgments, particularly under the circumstances present in the instant case. Petitioner's assertion, at page 8 of her Petition, that her federal complaint was "merely a diversity suit

for specific performance of a premarital contract . . . and to quiet title . . .," separate and distinct from any action pending in the state court proceeding, flies in the face of the foregoing undisputed facts. Petitioner, herself, concedes at pages 8 and 13 of her Petition, and her complaint on file with the District Court confirms, that the very premise of her federal action is to challenge the validity and finality of the October 3, 1974 judgment of the Circuit Court of McHenry County, Illinois.

All matters placed in issue before the District Court were fully litigated and determined adversely to the Petitioner in eight years of state court litigation. Even if this were not the case, all matters asserted by the Petitioner were "within the compass of the issues determined therein, and were, therefore, as effectively adjudicated as if they had been specifically put forward and specifically adjudged." *Hudson v. Lewis*, 188 F.2d 679 (5th Cir. 1951), *Resolute Insurance Company v. State of North Carolina*, 276 F. Supp. 660 (E.D. N.C. 1967), *aff'd.*, 397 F.2d 586 (4th Cir. 1968). The Petitioner may not, after receiving an adverse decision in the state courts, relitigate her claims in the federal courts. *England v. Louisiana State Board of Medical Examiners*, 375 U.S. 411 (1964). *Resolute Insurance Company v. State of North Carolina*, 397 F.2d 586 (4th Cir. 1968), *cert. denied*, 393 U.S. 978 (1968), *Reich v. City of Freeport*, 388 F. Supp. 953 (N.D. Ill. 1974), *aff'd.*, 527 F.2d 666 (7th Cir. 1975).

The Petitioner concedes as much, but, portraying the epitome of a disgruntled litigant who will not abide by the rule of law which states that at some point the litigation must terminate, nevertheless, realleges that the State Trial Court, in proceeding to judgment against

her, and the Appellate Court, in affirming that judgment, denied her due process and equal protection of the laws; that the Appellate Court, in entertaining her appeal, was without jurisdiction, and that, accordingly, neither her federal action nor her motions to the State Trial Court for vacation of its Order is barred by the doctrine of *res judicata*. Rather, the Federal Court is advised to ignore all that has gone before.

The Seventh Circuit Court of Appeals correctly found this argument unavailing. Clearly, no substantial federal question has been presented to this Court for consideration.

B. Preserving The Integrity Of State Court Proceedings Compelled Dismissal Of The Petitioner's Complaint.

The only overriding interest present in this litigation was to preserve the integrity of state court proceedings. Noting the protracted litigative history of the parties in the state courts, and observing that comity is the vital consideration behind the abstention doctrine enunciated in *Younger v. Harris*, 401 U.S. 37 (1971), the Court of Appeals held that to the extent the doctrines of *res judicata* and collateral estoppel were not strictly applicable, dismissal of the Petitioner's complaint was still appropriate. Citing the decisions of this Court in *Juidice v. Vail*, 430 U.S. 327 (1977) and *Trainor v. Hernandez*, 431 U.S. 434 (1977), the Court of Appeals states:

"As mentioned, the Supreme Court has never decided whether the abstention doctrine applies to private civil litigation. Even if it does not, however, dismissal of this suit was still appropriate. Conceptually, this case is similar to *Colorado River Water Conservation District v. United States*, 424 U.S. 800 (1976). In that case, the Supreme Court concluded that none of the branches of the abstention doctrine applied, but affirmed the dismissal of

the federal suit anyway for reasons of "wise judicial administration." The court discussed factors favoring dismissal under this doctrine as including the goal of avoiding piecemeal litigation. Another factor was the order in which jurisdiction was obtained. The court also mentioned the rule that the court which first assumes jurisdiction over property may exercise that jurisdiction to the exclusion of other courts. 424 U.S. at 818.

In this case, state court jurisdiction was invoked eight years before the commencement of the federal suit. Parts of the state proceedings are still pending before the state court, and the parts already litigated bear strong overtones of *res judicata*. It would be difficult to imagine a more appropriate case for dismissal in the name of "wise judicial administration."

Whether analyzed in terms of the *Younger* abstention doctrine or in terms of the "wise judicial administration" doctrine of the *Colorado River* case, dismissal was appropriate in this case." (Pet. Br., pp. 7a-8a)

The Petitioner's argument that the Court of Appeals, in so holding, abused its discretion and usurped the power of this Court ignores the limited application of these doctrines to the particular facts of this case as well as the underpinnings of federalism and comity upon which this finding was based.

Clearly, the State of Illinois has a legitimate and substantial interest in the enforceability and integrity of its judicial decisions. Moreover, the so-called constitutional issues raised by the Petitioner in her complaint in the District Court could have been raised by the Petitioner at any time during the state court proceedings and were, in fact, the subject of motions pending before the Circuit Court of the Nineteenth Judicial Circuit, McHenry County, Illinois at the time the Petitioner filed

her complaint with the District Court. The respective rights of the Petitioner and Respondents to all of the property that is the subject of the Petitioner's complaint in the District Court have been established as a matter of law in the State of Illinois; and any Federal action to alter those rights in any way based on claims that could have been and were being raised in the Illinois Courts would constitute an improper intrusion on the right of the State of Illinois to see its common-law enforced in its own Courts.

In *Juidice v. Vail*, 430 U.S. 327 (1977), Mr. Justice Rehnquist, quoting in part from the Court's opinion in *Huffman v. Pursue, Ltd.*, 420 U.S. 592, 604 (1975), states, at pages 335-336 of the Opinion,

"whether disobedience of a Court sanctioned subpoena, and the resulting process leading to a finding of contempt of Court, is labeled civil, quasi-criminal, or criminal in nature, we think the salient fact is that federal-court interference with the State's contempt process is 'an offense to the State's interest . . . likely to be every bit as great as it would be were this a criminal proceeding.'"

If Federal Court interference with the State of New York's contempt process is an offense to the State's interests sufficient to warrant dismissal of the Federal Court action, Petitioner Ruth A. Wold's request that a U.S. District Court interfere with the enforcement of a Decree entered by an Illinois Circuit Court and affirmed by the Appellate Court of Illinois on an appeal initiated by the Petitioner herself is no less significant an offense to the State's interest.

CONCLUSION

For all of the foregoing reasons, Petitioner's application for a writ of certiorari should be denied.

Respectfully submitted,

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